

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

In Re Estate of)
THE JAMES D. GARRED) No.
REVOCABLE LIVING TRUST) NOTICE OF REMOVAL
) (28 U.S.C. § 1441)

KELLY G. MERRILL, as Trustee of the James)
D. Garred Revocable Living Trust, Credit)
Shelter Trust Created by the James D. Garred)
Revocable Living Trust and the Marital Trust)
Created by the James D. Garred Revocable)
Trust,)
Petitioner,)
v.)
CHRISTOPHER MOORE, an individual; and)
CREASON, MOORE, DOKKEN & GEIDL,)
PLLC, an Idaho Limited Liability Company,)
Respondents.)

Pursuant to 28 U.S.C. § 1441, Respondents Creason, Moore, Dokken & Geidl, PLLC and Christopher J. Moore remove the above-captioned action from King County Superior Court to the United States District Court for the Western District of Washington at Seattle.

1 **A. JURISDICTION**

2 This Court has diversity jurisdiction under 28 U.S.C. § 1332 because the Petitioner is a
 3 citizen of Washington and Respondents are citizens of Idaho, and the amount in controversy
 4 exceeds \$75,000, as follows:

5 **(i) Citizenship**

6 Petitioner is Ms. Kelly G. Merrill, as Trustee of the James D. Garred Revocable Living
 7 Trust, and the associated Credit Shelter Trust and Marital Trust created by the James D. Garred
 8 Revocable Trust (together “Trusts”). For diversity purposes, a trust has the citizenship of its
 9 trustee. Johnson v. Columbia Props. Anchorage, LP, 437 F.3d 894, 899 (9th Cir. 2006).
 10 Ms. Merrill resides in Snohomish County, Washington, and therefore is believed to be a citizen
 11 of Washington. See p. 3 ¶ 2 of Petition to Recover Damages (hereafter “Petition”), attached as
 12 Exhibit A to the Declaration of Steven C. Minson in Support of Removal (“Minson Decl.”).

13 Respondent Christopher Moore is domiciled in and a citizen of Idaho. Declaration of
 14 Christopher J. Moore in Support of Removal (“Moore Decl.”) ¶ 1.

15 Respondent Creason, Moore, Dokken & Geidl, PLLC (“Creason firm”) is a professional
 16 limited liability company with offices in Lewiston, Idaho. Moore Decl. ¶ 2. For diversity
 17 purposes, a limited liability company is a citizen of every state of which its members are citizens.
 18 Johnson v. Columbia Props., 437 F.3d at 899. In addition to Mr. Moore, there are three other
 19 members of the Creason firm: Theodore O. Creason; David E. Dokken; and Tod D. Geidl.
 20 Moore Decl. ¶ 2. Messrs. Creason, Dokken, and Geidl are all domiciled in and citizens of Idaho.
 21 Id.

22 **(ii) Amount in Controversy**

23 Petitioner claims that, through legal malpractice and related torts, respondents have
 24 damaged the Trusts in excess of \$1.5 million. Minson Decl., Ex. A, p. 22 ¶ 8.

1 **B. SERVICE OF INITIAL PLEADING**

2 Respondents Christopher Moore and the Creason firm were served with a copy of the
3 Petition to Recover Damages on January 30, 2012. This Notice of Removal is, therefore, timely
4 filed with this Court within 30 days of such service as required by 28 U.S.C. § 1446(b). See
5 Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc., 526 U.S. 344 (1999).

6 **C. CONSENT**

7 Both Respondents have consented to and are joining in this removal.

8 **D. NOTICE**

9 Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being served on
10 Petitioner's counsel and a copy is being filed with the Clerk of the Superior Court of the State of
11 Washington for King County.

12 **E. STATE COURT FILE**

13 The only process, pleadings, or orders served by or upon Moore and the Creason firm in
14 the state court proceeding are the Petition to Recover Damages, a related Summons, declarations
15 from Ms. Merrill and her counsel, and Ms. Merrill's Motion to Assign New Cause Number. True
16 and correct copies of the Summons, the Petition, the declarations from Ms. Merrill and her
17 counsel, and the Motion to Assign New Cause Number are attached to the Minson Decl. as Exs.
18 A - G.

19 Also, in January 2011, Ms. Merrill filed a petition to remove her stepmother, Patti Jo
20 Garred, as trustee and to obtain an accounting and related relief under King County Cause No. 11-
21 4-00909-0 SEA. Minson Decl., Ex. H.

22 In May 2011, Ms. Merrill filed a petition to probate her father's will under King County
23 Cause No. 11-4-03722-1 SEA. Id., Ex. I.

24 Thereafter, Ms. Merrill obtained an order consolidating both the probate matter and the
25 proceedings against her stepmother under Cause No. 11-4-03722-1 SEA. Id., Ex. J.

Then, on January 27, 2012, under the same King County Cause Number, 11-4-03722-1 SEA, Ms. Merrill filed her Petition against Respondents Christopher Moore and the Creason firm. *Id.* Ex. A.

This notice of removal does *not* remove Petitioner's ongoing probate or petition for relief against Ms. Garred. This removal affects *only* the Petition to Recover Damages filed against Respondents Moore and the Creason firm. *Id.*

WHEREFORE, Respondents Christopher Moore and Creason, Moore, Dokken & Geidl, PLLC remove the Petition against them, and only that Petition, to this Court from King County Superior Court.

DATED this 23rd day of February, 2012.

BYRNES KELLER CROMWELL LLP

By /s/ Bradley S. Keller

By /s/ Paul R. Taylor

By /s/ Steven C. Minson

Bradley S. Keller, WSBA #10665

Paul R. Taylor, WSBA #14851

Steven C. Minson, WSBA #30974

1000 Second Avenue, 38th Floor
New York, N.Y. 10020

Seattle, WA 98104

Telephone: (206) 622-2000

Facsimile: (206) 622-2522
E-mail: kellie@u.washington.edu

Email: bkeller@byrneskeller.com

ptaylor@byrneskeller.com

sminson@byrneskeller.com
Attorneys for Respondents

Attorneys for Respondents
Christopher Moore and Creason, M.

Christopher Moore, and Christopher Geidl PLLC

Gelul, PLLC

1 **CERTIFICATE OF SERVICE**

2 The undersigned attorney certifies that on the 23rd day of February, 2012, I electronically
3 filed the foregoing with the Clerk of the Court using the CM/ECF system. On the same date I
also caused the foregoing to be served as follows:

4 **VIA HAND DELIVERY**

5 Bruce A. McDermott
6 Teresa Byers
7 Garvey Schubert Barer
8 1191 Second Avenue, 18th Floor
9 Seattle, WA 98101-2939
10 bmcdermott@gsblaw.com
11 tbyers@gsblaw.com
12 *Attorneys for Petitioner*

13 _____
14 /s/ Steven C. Minson
15 Steven C. Minson, WSBA #30974
16 Byrnes Keller Cromwell LLP
17 1000 Second Avenue, 38th Floor
18 Seattle, WA 98104
19 Telephone: (206) 622-2000
20 Facsimile: (206) 622-2522
21 sminson@byrneskeller.com
22 **Attorneys for Respondents**